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TITLE 2

AERONAUTICS

Chapter

1. Aeronautical Regulatory Act.
2. Public Airports Act.
3. Federal Airport Funds Act.
4. Airport Zoning Act.
5. Airport Authority Act.

CHAPTER 1

AERONAUTICAL REGULATORY ACT

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2-1-1. Definitions.

As used in this title:

(1) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, landing fields, landing strips, or other air navigation facilities.

(2) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

(3) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(4) "Airport" means any area of land, water, or both, which is used or is made available for the landing and takeoff and which provides facilities for the shelter, supply, and repair, of aircraft, and handling of passengers and cargo which as to size and design, surface, marking, equipment, and operation meets the minimum requirements established from time to time by the division.

(5) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, in flying, in ground subjects, or in both.

(6) "Aeronautics instructor" means any individual engaged in giving, or offering to give, instruction in aeronautics, in flying, in ground subjects, or in both, either with or without compensation or other reward, without advertising such occupation, without calling his facilities air school, or any equivalent term, and without employing or using other instructors.

(7) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(8) "Airworthiness" means conformity with requirements prescribed by the civil aeronautics authority regarding the structure or functioning of aircraft, engine, parts, or accessories.

(9) "Civil aircraft" means any aircraft other than a public aircraft.

(10) "Division," "division of aeronautics," "committee," or "aeronautical committee" means the appropriate division, office, commission, or committee in the Utah Department of Transportation.

(11) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, selling or exchanging aircraft, and who has an established place of business.

(12) "Experimental aircraft" means any aircraft used solely for the purpose of experiments, or tests, regarding the structure or functioning of aircraft, engines, or their accessories.

(13) "Flight" means any kind of locomotion by aircraft while in the air.

(14) "Flying club" means five or more persons who, neither for profit nor reward, own, lease, or use one or more aircraft for the purpose of instruction, pleasure or both.

(15) "Glider" means an aircraft heavier than air similar to an airplane but without a power plant.

(16) "Landing field" means any area of land, water, or both which is used or is made available for the landing and takeoff of aircraft, which may or may not provide facilities for the shelter, supply, and repair of

aircraft, and which, as to size, design, surface marking, equipment, and management, meets the minimum requirements established from time to time by the division.

(17) "Landing strip" means any area of land, water, or both which is used or is made available for the landing and takeoff of aircraft, the use of which shall, except in case of emergency, be only as provided from time to time by the division.

(18) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories on the ground or otherwise.

(19) "Person" means any individual, corporation, or association of individuals.

(20) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

(21) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

(22) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for such jumping.

(23) "Passenger aircraft" means aircraft designed and used for the purpose of transporting persons with or without their necessary personal belongings.

(24) "Passenger and commercial aircraft" means aircraft designed and used for passenger and commercial purposes.

(25) "Pilot" means any one who operates the controls of an aircraft while in flight.

(26) "Primary glider" means any glider that has a gliding angle of less than ten to one.

(27) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in such a manner as to endanger the property, life, or limb of any person, due regard being had to the prevailing weather condition, field conditions, and to the territory being flown over.

(28) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft whether or not the number includes a letter or letters.

(29) "Secondary glider" means any glider that has a gliding angle between ten to one and 16 to one, inclusive.

(30) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

(31) "Commercial operations" means any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing. "Com-

mercial operations" also means brokering or selling of any of these services but does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to same.

(32) "Commercial flight operator" means a person who conducts commercial operations.

(33) "Commercial airport" means a landing area, landing strip, or airport, which may be used for commercial operations.

(34) "Department" means the Utah Department of Transportation.

(35) "Committee" means the Utah Aeronautical Committee.

History: L. 1937, ch. 10, § 1; 1939, ch. 12, § 1; C. 1943, 4-0-19; L. 1953, ch. 1, § 1; 1961, ch. 1, § 1; 1969, ch. 199, § 23; 1973, ch. 1, § 1; 1975 (1st S.S.), ch. 9, § 1; 1983, ch. 1, § 1.

Amendment Notes. — The 1983 amendment substituted "division" for "department" in Subsection (4); deleted "or deviations therefrom by the board of aeronautics" after "authority" in Subsection (8); substituted "committee" and "aeronautics committee" in Sub-

section (10) for "board" and "board of aeronautics"; substituted "division" for "board" in Subsection (16); substituted "of" for "or" in Subsection (26); and made minor changes in phraseology, punctuation and style.

Cross-References. — Hunting from airplanes, § 23-20-12.

Department of Transportation, § 63-49-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 2.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace

§ 2.

Key Numbers. — Aviation ⇌ 2.

2-1-1.1. Repealed.

Repeals. — Section 2-1-1.1 (L. 1967, ch. 175, § 21), relating to the creation, powers, duties and members of the Board of Aeronautics

within the Department of Development Services, was repealed by Laws 1975 (1st. S.S.), ch. 9, § 53.

2-1-2. Aeronautical Committee — Members, appointment, terms — Per diem allowance and expenses — Chairman — Quorum.

The Aeronautical Committee shall be comprised of five members who shall be appointed by the governor, with the advice and consent of the Senate. Each member of the committee shall be knowledgeable and interested in aviation.

Not more than three of the members shall be of the same political party. All appointments, except to fill unexpired terms, shall be for four years.

Members of the committee shall be paid a per diem and their actual and necessary expenses incurred in the performance of their official duties, as provided by law.

The chairman of the committee shall be appointed from the membership of the committee. Three members of the committee shall constitute a quorum for the exercising of the powers and authority conferred upon it.

The members of the Board of Aeronautics within the Department of Development Services on the effective date of this act shall continue to serve and shall become the original members of this committee for the duration of their appointments and, thereafter, until their successors are appointed and qualified.

History: L. 1937, ch. 10, § 2; 1941 (1st S.S.), ch. 2, § 1; C. 1943, 4-0-20; L. 1957, ch. 52, § 2; 1965, ch. 1, § 1; 1967, ch. 175, § 22; 1975, ch. 204, § 10; 1983, ch. 320, § 1.

Amendment Notes. — The 1983 amendment deleted "allowance as approved by the board of examiners" after "per diem" in the third paragraph; and added "as provided by law" to the third paragraph.

Board of Aeronautics. — The Board of Aeronautics, referred to in the last paragraph, was deleted from the Department of Development Services by Laws 1975, Chapter 204, the "Department of Transportation Act." The Department of Development was abolished by

Laws 1979, Chapter 234, which created the Department of Community and Economic Development.

"Effective date of this act". — The phrase "effective date of this act," referred to in the last paragraph, means July 1, 1975, the effective date of Laws 1975, Chapter 204.

Sunset Act. — Section 63-55-7 provides that the Division of Aeronautical Operations and Utah Aeronautics Committee terminate on July 1, 1995.

Cross-References. — Department of Transportation Act, § 63-49-1 et seq.

Per diem and travel expenses, §§ 63-1-14.5 and 63-1-15.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 17.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇌ 31.

2-1-3 to 2-1-5. Repealed.

Repeals. — Section 2-1-3, as enacted by Laws 1937, ch. 10, § 3, relating to the organization of the State Aeronautics Commission, was repealed by Laws 1969, ch. 199, § 56.

Section 2-1-4, as amended by Laws 1941 (1st S.S.), ch. 2, § 1, relating to employment of director and clerical personnel of State Aeronau-

tics Commission, was repealed by Laws 1967, ch. 175, § 81.

Section 2-1-5, as amended by Laws 1941 (1st S.S.), ch. 2, § 1, relating to the offices of the State Aeronautics Commission, was repealed by Laws 1969, ch. 199, § 56.

2-1-6. Payment of expenses of administration.

The division shall pay the expenses of the administration of this act out of the special funds set up by the state treasurer for that purpose.

History: L. 1937, ch. 10, § 6; C. 1943, 4-0-24; L. 1969, ch. 199, § 24.

Meaning of "this act". — The term "this act" means Laws 1937, Chapter 10, which ap-

pears as §§ 2-1-1, 2-1-2, 2-1-6 to 2-1-9, 2-1-11 to 2-1-18, 2-1-21 to 2-1-28, 2-1-30, and 2-1-31. The reference probably should read "this chapter."

2-1-7. Certificate of registration of aircraft required — Exceptions.

(1) It is unlawful for any person to operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state, any civil aircraft located in this state unless the aircraft has a currently effective certificate of registration issued by this state through the county in which the aircraft is located. This restriction does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

History: L. 1937, ch. 10, § 7; 1939, ch. 12, § 1; C. 1943, 4-0-25; L. 1969, ch. 199, § 25; 1983, ch. 1, § 2; 1986, ch. 77, § 1.

Amendment Notes. — The 1983 amendment deleted "or the division of aeronautics" at the end of the first sentence; substituted "Federal Aviation Administration" for "division" in the second sentence; deleted "or to amateur built aircraft which have met the airworthiness requirements set forth in the rules and regulations promulgated by the board of aeronautics, and which have been registered by the division" at the end of the section; and made

minor changes in phraseology and punctuation.

The 1986 amendment, effective January 1, 1987, designated the existing provisions of this section as Subsection (1); in Subsection (1), inserted "located in this state" and substituted "this state through the county in which the aircraft is located" for "the government of the United States" in the first sentence and made a minor word change in the second sentence; and added Subsection (2).

Cross-References. — Situs of aircraft for tax purposes, § 59-2-104.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 22.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 39 to 41.

A.L.R. — Construction and effect of 49

U.S.C. § 1403, governing recordation of ownership, conveyances, and encumbrances on aircraft, 22 A.L.R.3d 1270.

Key Numbers. — Aviation ⇐ 10, 71 et seq., 122.

2-1-7.5. Aircraft registration information requirements — Registration fee.

(1) All applications for aircraft registration shall contain the following:

(a) a description of the aircraft registered, including the name of the manufacturer, and the aircraft registration number, type, year of manufacture, and gross weight; and

(b) the name and address of the owner of the aircraft and the location of the aircraft. The legal basis for determining where an aircraft is located is the location or address at which the aircraft is usually used or kept.

(2) The application for registration shall be accompanied by a registration fee determined by the State Tax Commission. The fee shall be collected by the county and remitted to the tax commission to be used to defray the costs of implementing this section.

History: C. 1953, 2-1-7.5, enacted by 1986, ch. 77, § 2.

Effective Dates. — Section 6 of Laws 1986,

ch. 77 provided: "This act takes effect on January 1, 1987."

2-1-7.7. Failure to register — Penalty.

Failure to register any aircraft required to be registered with the state in the county in which the aircraft is located shall subject the owners of the aircraft to the same penalties provided for motor vehicles under §§ 41-1-115, 41-1-134, and 41-1-135.

History: C. 1953, 2-1-7.7, enacted by L. 1986, ch. 77, § 3.

Effective Dates. — Section 6 of Laws 1986,

ch. 77, provided: "This act takes effect on January 1, 1987."

2-1-8. Pilot's certificate of competency required — Exceptions.

It is unlawful for any person to pilot within this state any civil aircraft unless that person is the holder of a currently effective pilot's certificate of competency issued by the government of the United States. This restriction does not apply to any person operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

History: L. 1937, ch. 10, § 8; 1939, ch. 12, § 1; C. 1943, 4-0-26; L. 1967, ch. 175, § 26; 1973, ch. 1, § 2; 1983, ch. 1, § 3.

Amendment Notes. — The 1983 amendment deleted "or by the division of aeronautics" at the end of the first sentence; deleted "or to pilots of private or lower rating who have

successfully passed the physical examination and flight test as prescribed in the rules and regulations promulgated by the board" at the end of the second sentence; deleted two paragraphs concerning pilot ratings; and made minor changes in phraseology and punctuation.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation, §§ 34 to 38.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 42 to 56.

A.L.R. — Construction of provision of avia-

tion liability policy which requires pilot of insured aircraft to have appropriate license or certification, 72 A.L.R.3d 525.

Key Numbers. — Aviation ⇌ 122.

2-1-9. Mechanic's certificate of competency.

Mechanics will be rated as airframe or powerplant mechanics. A person may hold a plurality of certificate of competency, such as both classes of mechanics' certificate of competency or a pilots' and mechanics' certificate of competency. The certificate shall be a currently effective certificate of competency issued by the government of the United States. This restriction does not apply to mechanics employed by the United States government.

History: L. 1937, ch. 10, § 8-A, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-27; L. 1967, ch. 175, § 27; 1973, ch. 1, § 3; 1983, ch. 1, § 4.

Amendment Notes. — The 1983 amend-

ment deleted "or the division of aeronautics" at the end of the third sentence; and made minor changes in phraseology and punctuation.

2-1-10. Repealed.

Repeals. — Section 2-1-10, as amended by Laws 1969, ch. 199, § 26, relating to me-

chanics' certificates, was repealed by Laws 1973, ch. 1, § 6.

2-1-11. Certificate carried subject to inspection — Burden of proving validity of certificate in criminal proceedings.

The certificate of the license or permit required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when he is operating an aircraft within the state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspic-

uously posted in clear view of passengers. The certificate of pilot's license, student's permit, or aircraft license shall be presented for inspection upon the demand of any peace officer of this state, any authorized official or employee of the Division of Aeronautics, or any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under this act, a defendant who relies upon a license or permit of any kind has the burden of proving that he is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license or permit was issued.

History: L. 1937, ch. 10, § 9; C. 1943, 4-0-29; L. 1969, ch. 199, § 27; 1983, ch. 1, § 5.

Amendment Notes. — The 1983 amendment deleted "any passenger" after "demand

of" in the third sentence; and made minor changes in phraseology.

Meaning of "this act". — See same catch-line in notes following § 2-1-6.

2-1-12. Aeronautical Committee created within Department of Transportation — Advisory capacity — Powers and duties.

- (1) (a) There is created an Aeronautical Committee within the Department of Transportation to act in an advisory capacity to the Aeronautical Operations Division in determining the aeronautics policy within the state.
- (b) The committee shall enact rules concerning:
 - (i) the establishment, location, and use of air navigation facilities; and
 - (ii) the regulation of, the use, licensing, and supervision of airports, landing fields, and landing strips.
- (2) The committee:
 - (a) shall enact rules establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, airports, and landing fields must comply;
 - (b) shall adopt rules to safeguard from accident and to protect the safety of persons operating or using aircraft and persons and property on the ground;
 - (c) may require that any device or accessory that forms part of any aircraft or its equipment be certified as being in compliance with the provisions of this chapter; and
 - (d) may limit the use of any device or accessory as necessary for safety, and develop and promote aeronautics within this state.
- (3) (a) In order to avoid the danger of accident incident to confusion arising from conflicting rules governing aeronautics, the committee's rules shall conform as nearly as possible with federal legislation, rules, regulations, and orders on aeronautics.
- (b) The committee's rules may not be inconsistent with paramount federal legislation, rules, regulations, and orders on the subject.
- (4) The committee may not require any pilot, aircraft, or mechanic who has procured a license under the civil aeronautics authority of the United States to obtain a license from this state, other than required by Chapter 1, Title 2.

(5) The committee may not enact rules that conflict with the regulations of the civil aeronautics authority or with regulations of other federal agencies authorized to regulate the particular activity.

(6) All schedules of charges, tolls, and fees established by the division shall be approved and adopted by the committee.

(7) The committee shall comply with the procedures and requirements of Chapter 46b, Title 63, in its adjudicative proceedings.

History: L. 1937, ch. 10, § 10; 1939, ch. 12, § 1; C. 1943, 4-0-30; L. 1967, ch. 175, § 23; 1969, ch. 199, § 28; 1975, ch. 204, § 9; 1983, ch. 1, § 6; 1987, ch. 161, § 3.

Amendment Notes. — The 1983 amendment deleted "air markings, air beacons and other" before "air navigation facilities" in the second sentence of Subsection (1); deleted "and (3) the establishment, operation and equipment of all air schools, flying clubs and other persons giving air instruction" at the end of

Subsection (1); deleted "air schools," "flying," and "airways" from the listing in Subsection (2)(a); substituted "division" for "department" in Subsection (3); and made minor changes in phraseology, punctuation and style.

The 1987 amendment, effective January 1, 1988, rewrote this section, as previously amended by Laws 1983, ch. 1, § 6, to the extent that a detailed analysis is impracticable.

Cross-References. — Department of Transportation Act, § 63-49-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 17.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇐ 31 to 33.

2-1-13. Investigations and hearings — Powers.

(1) The Aeronautical Committee may conduct investigations, inquiries, and hearings concerning matters covered by this chapter and accidents or injuries incident to the operation of aircraft occurring within this state.

(2) The committee may:

- (a) administer oaths and affirmations;
- (b) certify to all official acts;
- (c) issue subpoenas;
- (d) compel the attendance and testimony of witnesses; and
- (e) compel the production of papers, books, and documents.

(3) (a) If any person fails to comply with any subpoena or order issued by the committee, the committee may petition any district court in this state to order compliance.

(b) The district court may order the person to comply with the requirements of the subpoena or order of the committee, or to give evidence upon the matter in question.

(c) Any failure to obey the order of the court may be punished by the court as contempt.

History: L. 1937, ch. 10, § 11; C. 1943, 4-0-31; L. 1969, ch. 199, § 29; 1983, ch. 1, § 7; 1987, ch. 161, § 4.

Amendment Notes. — The 1983 amendment substituted references to the aeronautical committee for references to the board of aeronautics throughout the section; and made minor changes in phraseology.

The 1987 amendment, effective January 1,

1988, designated the previously undesignated provisions of the section as last amended by Laws 1983, ch. 1, § 7; in Subsection (1), substituted "chapter" for "act"; and made minor changes in phraseology and punctuation throughout the section.

Cross-References. — Contempt, Chapter 32 of Title 78.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace
§ 20.

Key Numbers. — Aviation ⇐ 34.

2-1-14. Reports of hearings or investigations — Restrictions on use — Members of committee or employees of division not required to testify.

The reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in such investigations or hearings, or in any report thereof, except in case of criminal or other proceedings instituted by or in behalf of the Division of Aeronautics under this act, nor shall any member of the committee or any employee of the division be required to testify to any fact ascertained in, or information gained by reason of, his official capacity. The members or employees of the Division of Aeronautics shall not be required to testify as expert witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

History: L. 1937, ch. 10, § 12; C. 1943, 4-0-32; L. 1967, ch. 175, § 28; 1983, ch. 1, § 8.

Amendment Notes. — The 1983 amendment substituted "committee" for "board" in

the first sentence; and made minor changes in phraseology.

Meaning of "this act". — See catchline in notes following § 2-1-6.

2-1-15. Enforcement of chapter — Fees for services by division.

(1) It shall be the duty of the Division of Aeronautics and every county and municipal officer charged with the enforcement of state and municipal laws to enforce and assist in the enforcement of this act. The Division of Aeronautics is authorized in the name of the state of Utah to enforce the provisions of this act by injunction in the district courts of this state. Other departments and political subdivisions of this state are authorized to cooperate with the committee and the Division of Aeronautics in the development of aeronautics within this state.

(2) Unless otherwise provided by statute, the division may adopt a schedule of fees assessed for services provided by the division. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the division's annual appropriations request. The division may not charge or collect any fee proposed in this manner without approval by the Legislature.

History: L. 1937, ch. 10, § 13; C. 1943, 4-0-33; L. 1967, ch. 175, § 29; 1983, ch. 1, § 9; 1984 (2nd S.S.), ch. 15, § 1.

Amendment Notes. — The 1983 amendment substituted "committee" for "board" in the last sentence of Subsection (1); and made minor changes in phraseology.

The 1984 (2nd S.S.) amendment added Subsection (2).

Meaning of "this act". — See same catchline in notes following § 2-1-6.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace
§ 20.

Key Numbers. — Aviation ⇌ 35.

2-1-15.5. Procedures — Adjudicative proceedings.

The Division of Aeronautics shall comply with the procedures and requirements of Chapter 46b, Title 63, in its adjudicative proceedings.

History: C. 1953, 2-1-15.5, enacted by L. § 315 makes the act effective on January 1, 1987, ch. 161, § 5. 1988.

Effective Dates. — Laws 1987, ch. 161,

2-1-16. Airport license required — Issuance by division — Restrictions on use of lands or waters of another — Annual fee.

(1) An airport open to public use shall not be used or operated unless it is duly licensed by the Division of Aeronautics. Within 60 days after the effective date of this act, any person who owns or operates an airport open to public use shall file an application with the Division of Aeronautics for a license for the facility.

(2) Licenses shall be granted whenever they are reasonably necessary for the accommodation and convenience of the public and may be granted in other cases in the discretion of the division. The Division of Aeronautics shall issue licenses for all airports in operation when this act becomes effective unless the Division of Aeronautics finds that the facility is not constructed, equipped, and operated in accordance with the standards promulgated by the committee.

(3) The landing or taking off of aircraft on or from the lands or waters of another without his consent is unlawful, except in the case of a forced landing. For damages caused by a takeoff or landing, the owner, lessee of the aircraft, and/or operator thereof shall be liable.

(4) No student pilot shall land on any area without the knowledge of the operator, instructor, or school from which he is flying. The use of private landing fields must not impose a hazard upon the person or property of others.

(5) A certificate of registration shall not be required of, and the rules, orders, and regulations promulgated under the authority of this act shall not apply to an airport owned or operated by the government of the United States.

(6) The Division of Aeronautics, with the approval of the committee, is authorized to charge a fee determined by the Division of Aeronautics pursuant to Subsection 63-38-3(2) for the issuance of an annual airport license.

History: L. 1937, ch. 10, § 14; 1939, ch. 12, § 1; C. 1943, 4-0-34; L. 1953, ch. 1, § 1; 1967, ch. 175, § 30; 1983, ch. 1, § 10; 1984 (2nd S.S.), ch. 15, § 2.

Amendment Notes. — The 1983 amendment inserted subsection designations; substituted "airport open to public use" in each sentence of Subsection (1) for "airport, landing field, landing strip, air school, flying club, air beacon or other air navigation facility"; substi-

tuted "facility" at the end of Subsection (1) for "air navigation facility"; deleted "landing fields, landing strips, air schools, flying clubs, air beacons and other air navigation facilities" after "airports" in the second sentence of Subsection (2); inserted "and operated" in the second sentence of Subsection (2); substituted "committee" at the end of Subsection (2) for "board or that the school or club is not being operated according to the requirements appli-

cable to those applying for a certificate of registration to operate a new air school or flying club"; deleted "landing field, landing strip, air beacon or other air navigation facility" after "airport" in Subsection (5); increased the airport license fee from \$5 to \$10 in Subsection (6); deleted provisions for annual landing field license fee of \$2, for annual air school license of \$5, and for no fee for annual landing strip, flying club or air beacon licenses; and made

minor changes in phraseology, punctuation and style.

The 1984 (2nd S.S.) amendment substituted "charge a fee determined by the Division of Aeronautics pursuant to Subsection 63-38-3(2)" in Subsection (6) for "charge \$10."

Meaning of "this act". — See same catchline in notes following § 2-1-6.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace
§§ 57 to 74.

Key Numbers. — Aviation ⇌ 213 to 215.

2-1-16.5. Aircraft landing permits — Eligible aircraft — Special licenses — Rules and regulations — Proof of insurance — Bonds.

(1) The county commission of any county may issue permits authorizing aircraft to land on or take off from designated county roads. Permits may be issued to aircraft operated as air ambulances or pesticide applicators and to aircraft operated by or under contract with public utilities and use [used] in connection with inspection, maintenance, installation, operation, construction or repair of property owned or operated by the public utility.

(2) Permits may also be issued by the county commission to other aircraft under rules and regulations prescribed by the commission.

(3) The Division of Aeronautics shall prescribe rules and regulations for the issuance of special licenses to aircraft permitted by a county commission to land on county roads.

The division shall prescribe rules and regulations for the issuance of special licenses to pilots permitting the pilots to operate aircraft licensed under this subsection from county roads.

The rules and regulations prescribed under this subsection shall include provisions for the safety of the flying and motoring public.

(4) The Aeronautical Committee shall prescribe rules and regulations for the landing and taking off of aircraft to which permits have been issued, which may include annual reports of activities of such aircraft.

(5) Prior to the issuance of a permit or license to any aircraft, the applicant shall file with the county commission and the Aeronautical Operations Division a certificate of insurance executed by an insurance company or association authorized to transact business in this state upon a form prescribed by the division that there is in full force and effect a policy of insurance covering the aircraft for liability against personal injury or death for any one person in an amount of not less than \$50,000, for any one accident in an amount of not less than \$100,000, and for property damage in an amount of not less than \$50,000.

(6) In addition to the insurance herein required, either the county commission or the aeronautical division may require the posting of a bond to indemnify the commission or division against liability resulting from the issuance of the permit or license.

History: C. 1953, 2-1-16.5, enacted by L. 1977, ch. 1, § 1.

Cross-References. — Administrative rule-making, Chapter 46a of Title 63.

2-1-17. Reason for division order to be stated — Closing airports — Notice — Right of inspection.

(1) If the Division of Aeronautics rejects an application for permission to operate or establish an airport, or issues any order under this chapter that requires or prohibits certain things to be done, its order shall:

(a) contain the reasons for the rejection; and

(b) state the requirements to be met before approval will be given or the order changed.

(2) The Division of Aeronautics may order the closing of any airport until its requirements have been fulfilled.

(3) (a) An airport not meeting the standards required by the division shall be given notice of its noncompliance and shall have ten days from the receipt of that notice to respond to the division with a plan and schedule for compliance.

(b) If the airport fails to respond within the required time, the division may revoke the airport license and close the airport.

(4) The division and any state or municipal officer charged with the duty of enforcing this chapter may inspect and examine at reasonable hours any premises, buildings, or other structures where regulated airports are operated.

History: L. 1937, ch. 10, § 15; C. 1943, 4-0-35; L. 1967, ch. 175, § 31; 1983, ch. 1, § 11; 1987, ch. 161, § 6.

Amendment Notes. — The 1983 amendment deleted references to landing fields, landing strips, air schools, flying clubs, air beacons, and other air navigation facilities after references to airports in the first, second, and last sentences; inserted the third and fourth sen-

tences; and made minor changes in phraseology.

The 1987 amendment, effective January 1, 1988, designated the previously undesignated provisions of the section as previously amended by Laws 1983, ch. 1, § 11; in Subsections (1) and (4) substituted "chapter" for "act"; and made minor changes in phraseology and punctuation throughout the section.

2-1-18. Judicial review.

(1) Any person against whom an order has been entered may obtain judicial review.

(2) Venue for judicial review of informal adjudicative proceedings is in the district court of the county in which the order was made or the county in which property affected by the order is located.

History: L. 1937, ch. 10, § 16; C. 1943, 4-0-36; L. 1987, ch. 161, § 7.

Amendment Notes. — The 1987 amendment, effective January 1, 1988, designated the previously undesignated provisions of this section as enacted by Laws 1937, ch. 10, § 16; in Subsection (1), substituted "obtain judicial review" for "within ten days after the service

thereof appeal to"; in Subsection (2), inserted at the beginning "venue for the judicial review of informal adjudicative proceedings is in" and deleted at the end "for the purpose of having the reasonableness or lawfulness of the order inquired into and determined"; and made minor changes in phraseology and punctuation throughout the section.

2-1-19, 2-1-20. Repealed.

Repeals. — Laws 1987, ch. 161, § 314 repeals §§ 2-1-19, 2-1-20, as last amended by Laws 1967, ch. 175, §§ 32, 33, concerning pro-

cedure and time for appeal of orders, effective January 1, 1988. For present comparable provisions, see § 2-1-18.

2-1-21. Violations — Penalty.

Any person failing to comply with the requirements or violating any of the provisions of this act, or the rules or orders adopted by the board is guilty of a class B misdemeanor.

History: L. 1937, ch. 10, § 19; C. 1943, 4-0-39; L. 1969, ch. 199, § 30; 1986, ch. 178, § 1.

Amendment Notes. — The 1986 amendment deleted "regulations" following "rules" and substituted "is guilty of a class B misdemeanor" for "shall be guilty of a misdemeanor and punishable by a fine of not more than \$299

or by imprisonment for not more than six months in the county jail, or both."

Meaning of "this act". — See same catchline in notes following § 2-1-6.

Cross-References. — Business without a license, § 76-8-410.

Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 158.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 287 to 288.

Key Numbers. — Aviation ⇌ 15 to 17, 252.

2-1-22. Separability clause.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

History: L. 1937, ch. 10, § 20; C. 1943, 4-0-40.

Meaning of "this act". — See same catchline in notes following § 2-1-6.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.

Key Numbers. — Statutes ⇌ 64(1), (2).

2-1-23. Construction of chapter.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: L. 1937, ch. 10, § 21; C. 1943, 4-0-41.

Meaning of "this act". — See same catchline in notes following § 2-1-6.

2-1-24. Short title.

This act may be cited as the Uniform Aeronautical Regulatory Act.

History: L. 1937, ch. 10, § 22; C. 1943, 4-0-42.

Meaning of "this act". — See same catchline in notes following § 2-1-24.

Compiler's Notes. — The National Conference of Commissioners on Uniform State Laws withdrew the Uniform Aeronautical Regulatory Act in 1943.

2-1-25. Sovereignty in space above land and water in state.

Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

History: L. 1937, ch. 10, § 25, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-45.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 3.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 7.

Key Numbers. — Aviation ⇌ 3.

2-1-26. Report of death or serious injury to person or property.

If in the operation of civil aircraft death or serious injury to person or to property results, a report shall be made in accordance with federal aviation regulations.

History: L. 1937, ch. 10, § 26, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-46; L. 1967, ch. 175, § 34; 1983, ch. 1, § 12.

Amendment Notes. — The 1983 amendment substituted "in accordance with federal aviation regulations" for "immediately by the

registered owner to the division of aeronautics, by telegraph or by telephone, stating the registered number of aircraft and the time and place of the accident"; and made a minor change in phraseology.

2-1-27. Report of injury to aircraft or property.

All accidents in the operation of civil aircraft which cause injury to aircraft or property shall be reported in accordance with federal aviation regulations.

History: L. 1937, ch. 10, § 27, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-47; L. 1953, ch. 1, § 1; 1967, ch. 175, § 35; 1983, ch. 1, § 13.

Amendment Notes. — The 1983 amendment deleted "in the amount of \$100 or more"

before "shall be reported"; and substituted "in accordance with federal aviation regulations" for "without delay by the registered owners or by the pilot to the division of aeronautics."

2-1-28. Marking buildings to aid navigation.

The Division of Aeronautics shall have authority to cooperate with the officials of all state institutions for the purpose of marking one building within their group as an aid to aerial navigation. Such marking shall be subject to the approval of the division and shall comply with the requirements of the United States civil aeronautics authority for air marking.

History: L. 1937, ch. 10, § 28, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-48; L. 1967, ch. 175, § 36.

2-1-29. Repealed.

Repeals. — Section 2-1-29, as last amended by Laws 1967, ch. 175, § 37, requiring holders of certificates to notify division of change of

address or in appearance of aircraft, was repealed by Laws 1983, ch. 1, § 19.

2-1-30. Tampering with aircraft without permission of owner forbidden.

It shall be unlawful for any person, without express or implied authority of the owner, to operate, climb upon, enter, manipulate the controls or accessories of, set in motion, remove parts or contents of, or otherwise tamper with any civil aircraft within this state, or knowingly cause or permit the same to be done.

History: L. 1937, ch. 10, § 30, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-50; L. 1953, ch. 2, § 1.

2-1-31. Tampering with airport or equipment forbidden.

No person shall interfere or tamper with any airport, landing field or airway, or the equipment thereof.

History: L. 1937, ch. 10, § 31, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-51.

2-1-32. Repealed.

Repeals. — Section 2-1-32, as last amended by Laws 1967, ch. 175, § 38, relating to acci-

dent reports, was repealed by Laws 1983, ch. 1, § 19.

2-1-33. Nonpaying guests — Accidents.

No person riding in an aircraft as a guest, without payment for the ride or transportation, nor his personal representative in the event of the death of such guest, shall have a cause of action against any pilot or crewman of such aircraft or its owner or his employee or agent for injury, death, or loss, in case of accident, unless the accident was caused by the intoxication or willful misconduct of the pilot or crewman of such aircraft or its owner or his em-

ployee or agent and unless such intoxication proximately resulted in the injury, death or loss for which the action is brought.

History: C. 1953, 2-1-33, enacted by L. 1953, ch. 2, § 2.

NOTES TO DECISIONS

ANALYSIS

Constitutionality.
Volunteer as nonpaying guest.

Constitutionality.

This section, the Utah Aircraft Guest Statute, violates the equal protection principles of Article I, Sec. 24 of the Utah Constitution and is, therefore unconstitutional. *Johnston v. Stoker*, 685 P.2d 539 (Utah 1984).

Volunteer as nonpaying guest.

Estate of deceased airplane passenger, who

had volunteered his services as observer in airplane being used to conduct search and who died when plane crashed, could not recover from estate of deceased pilot since such passenger was "nonpaying guest" under this section and evidence did not establish intoxication or willful misconduct on part of pilot. *Middleton v. Cox*, 24 Utah 2d 43, 465 P.2d 530 (1970).

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 87 to 90.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 147.

A.L.R. — Liability for injury to guest in airplane, 40 A.L.R.3d 1117.

Choice-of-law considerations in application of aviation guest statute, 62 A.L.R.3d 1076.

Constitutionality of automobile and aviation guest statutes, 66 A.L.R.3d 532.

Key Numbers. — Aviation ⇐ 149.

2-1-34. Abandoned or unclaimed aircraft — Sale.

Aircraft which have been abandoned and unclaimed by any record owner, title holder, mortgage, or lien holder, for a period of three months from the date of abandonment, shall be removed or impounded by the director of the Division of Aeronautics for such purposes, and held for a period of 45 days after personal notice by registered mail to the registered owner and lien holders as shown on the records of the United States administrator of civil aeronautics, after which period the abandoned or unclaimed aircraft may be sold at public auction by the sheriff of the county in which the aircraft was located at the time of abandonment in the same manner and after the same notice required in sales of property seized on chattel mortgage. Any surplus received at sale, shall, after all charges incidental to the sheriff's sale have been paid and satisfied and all costs of sale have been deducted, be placed in an escrow fund of the Division of Aeronautics in trust for the recorded title or lien holders or their successors in title or interest as the same shall be made to appear, for a period of three years, for distribution as may be ordered by a court of record of this state in an action to determine the rights and priorities of claimants thereto. At the expiration of the three years' period the undistributed surplus shall be deposited in the state fund earmarked for aeronautics. The sheriff's deed or bill of sale executed and delivered at the public auction shall be recorded in the county in which the public auction sale was effected. A copy of the deed or bill of sale, together with an attached affidavit executed

by the sheriff stating the time, place and circumstances of the sale, shall be forwarded by the sheriff by registered mail to the division which shall register the instrument on their records and forward it to the United States administrator of civil aeronautics for recording in his register.

History: C. 1953, 2-1-34, enacted by L. 1953, ch. 2, § 2; L. 1967, ch. 175, § 39; 1983, ch. 1, § 14.

Amendment Notes. — The 1983 amend-

ment substituted "division of aeronautics" for "board of aeronautics" in the second sentence; and made minor changes in phraseology and punctuation.

COLLATERAL REFERENCES

Am. Jur. 2d. — 1 Am. Jur. 2d Abandoned, Lost, and Unclaimed Property § 1 et seq.

C.J.S. — 30A C.J.S. Escheat § 2 et seq.

Key Numbers. — Escheat ⇌ 2 et seq.

2-1-35 to 2-1-38. Repealed.

Repeals. — Section 2-1-35, as last amended by Laws 1967, ch. 175, § 40, relating to regulation of commercial flight operators, was repealed by Laws 1983, ch. 1, § 19.

Section 2-1-36, as last amended by Laws 1967, ch. 175, § 41, relating to regulation of commercial flight operators, was repealed by Laws 1983, ch. 1, § 19.

Section 2-1-37, as last amended by Laws 1969, ch. 199, § 31, relating to the creation of

the Division of Aeronautics within the Department of Development Services, was repealed by Laws 1975 (1st S.S.), ch. 9, § 53.

Section 2-1-38, as last amended by Laws 1969, ch. 199, § 32, relating to the appointment of the director of the Division of Aeronautics, was repealed by Laws 1975 (1st S.S.), ch. 9, § 53.

2-1-39. Expenditures for civil air patrol.

(1) The state Division of Aeronautics is authorized to expend state aeronautics funds to the Utah wing of the Civil Air Patrol to be used for the following purposes:

- (a) to purchase aviation facilities, training, supplies, and equipment;
- (b) to defray maintenance and rental costs of hangar facilities and aircraft;
- (c) to purchase maintenance supplies and equipment for the communications network of the Civil Air Patrol; and
- (d) to provide administrative costs approved by the state Aeronautical Operations Division.

(2) The foregoing expenditures shall not exceed in any fiscal year the amount appropriated to the Utah wing of the Civil Air Patrol by the Legislature.

History: L. 1971, ch. 2, § 1; 1973, ch. 2, § 1; 1983, ch. 1, § 15; 1986, ch. 110, § 1.

Amendment Notes. — The 1983 amendment substituted "aeronautical operations division" for "board of aeronautics" in Subsection (4); and made minor changes in phraseology and punctuation.

The 1986 amendment designated the former

paragraphs as Subsections (1) and (2), redesignated former Subsections (1) to (4) as present Subsections (1)(a) to (1)(d), made capitalization changes in Subsections (1)(a) to (1)(d), inserted "facilities" in Subsection (1)(a), and substituted "rental costs of hangar facilities and" for "hangar rental of" in Subsection (1)(b).

2-1-40. Approval of expenditures for civil air patrol.

No expenditure of state funds for the civil air patrol shall be made unless a purchase order is first approved by the director of aeronautics under guidelines established by the Aeronautical Committee and unless the funds are specifically used as required in this act.

History: L. 1971, ch. 2, § 2; 1983, ch. 1, § 16.

Amendment Notes. — The 1983 amendment substituted "Aeronautical Committee" for "State Board of Aeronautics."

Meaning of "this act". — The term "this act", referred to at the end of the section, means Laws 1971, Chapter 2, which appears as §§ 2-1-39 to 2-1-41.

2-1-41. Tax-exempt status of civil air patrol equipment.

Equipment, aircraft and vehicles owned by the civil air patrol and used for the emergency service needs of the state of Utah are given tax-exempt status.

History: L. 1971, ch. 2, § 3.

CHAPTER 2

PUBLIC AIRPORTS ACT

Section		Section	
2-2-1.	Powers of Division of Aeronautics — Acceptance of property.	2-2-7.	Powers of department and political subdivisions over airports and landing fields — Security unit.
2-2-2.	Cooperation with counties, cities and towns and Federal Government — Expenditures by division.	2-2-8.	Providing for levying of taxes.
2-2-3.	Division and political subdivisions authorized to acquire and regulate airports.	2-2-9.	Acquisition of air rights — Condemnation.
2-2-4.	Lands acquired by division and political subdivisions — Declaration of public purpose.	2-2-10.	Easements for marks or lights — Condemnation.
2-2-5.	Acquisition of property — Condemnation.	2-2-11.	Police regulations.
2-2-6.	Payment by appropriation or sale of bonds.	2-2-12.	General provisions of law applicable in condemnation proceedings, issuing bonds, and levying taxes.
		2-2-13.	Separability clause.
		2-2-14.	Construction of chapter.
		2-2-15.	Short title.

2-2-1. Powers of Division of Aeronautics — Acceptance of property.

The Division of Aeronautics and the governing body of any county, city or town, for and on behalf of the state of Utah or county, city or town respectively, may accept contributions of money, or real or personal property, for the purpose of establishing, developing, operating or maintaining airports or landing fields under the provisions of the Uniform Airports Act.

History: L. 1945, ch. 9, § 1; C. 1943, Supp., 4-0-52.10; L. 1969, ch. 199, § 33.

Uniform Airports Act. — See § 2-2-15 and notes thereto.

NOTES TO DECISIONS

Governmental operation of airports.

The statutes of this state have tagged the operation of airports by state political subdivisions as being accomplished in a governmental capacity rather than a proprietary capacity

and so the municipal airport at Salt Lake City must be held to be operating under a governmental capacity. *Wade v. Salt Lake City*, 10 Utah 2d 374, 353 P.2d 914 (1960).

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 60.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 61.

A.L.R. — Rescue: liability of owner or operator of airport in connection with furnishing rescue equipment or services, 34 A.L.R.3d 1449.

Key Numbers. — Aviation ⇐ 217.

2-2-2. Cooperation with counties, cities and towns and Federal Government — Expenditures by division.

The Division of Aeronautics is hereby authorized to cooperate with counties, cities and towns of Utah in the development and construction of airports and landing fields and to make agreements for and on behalf of the state of Utah with any county, city or town, jointly or severally, with respect to the financial participation, construction and operation of any airport or landing field. It shall be lawful for the division to cooperate with the Federal Government in the establishment of any such airport or landing field and to accept, from the United States of America, money to be matched with the funds of the state of Utah and funds appropriated by any county, city, or town in the development and construction of any airport or landing field under the provisions of the Uniform Airports Act. The division may expend not to exceed ten percent of its annual appropriation upon any one project under the terms of this act.

History: L. 1945, ch. 9, § 2; C. 1943, Supp., 4-0-52.11; L. 1967, ch. 175, § 42.

Uniform Airports Act. — See § 2-2-15 and notes thereto.

Meaning of "this act". — The term "this act", referred to at the end of this section, means Laws 1945, Chapter 9, which appears as §§ 2-2-1 and 2-2-2.

2-2-3. Division and political subdivisions authorized to acquire and regulate airports.

The state, through its Division of Aeronautics, and municipalities, counties and other political subdivisions of this state are authorized, separately or jointly, to acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports and landing fields for the use of aircraft, and by such municipalities, counties and other political subdivisions, either within or without their geographical limits, and may use for such purpose or purposes any available property that is now or may at any time hereafter be owned or controlled by the Division of Aeronautics or by such municipalities, or other political subdivisions, but no county shall exercise the authority conferred outside of its geographical limits except in an adjoining county and this only jointly with such adjoining county.

History: L. 1937, ch. 9, § 1; 1939, ch. 11, § 1; C. 1943, 4-0-53; L. 1967, ch. 175, § 43.

Cross-References. — Cities, power to lay out airports, § 10-8-8.

County commissioners may construct landing fields and hangars, § 17-5-38.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 60 to 70.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 57 to 74.

Key Numbers. — Aviation ⇐ 217.

2-2-4. Lands acquired by division and political subdivisions — Declaration of public purpose.

Any lands acquired, owned, leased, controlled or occupied by the Division of Aeronautics or by such counties, municipalities or other political subdivision for the purpose or purposes enumerated in § 2-2-3 shall and are declared to be acquired, owned, leased, controlled, or occupied for public, governmental and municipal purposes.

History: L. 1937, ch. 9, § 2; 1939, ch. 11, § 1; C. 1943, 4-0-54; L. 1967, ch. 175, § 44.

2-2-5. Acquisition of property — Condemnation.

Private property needed by the Division of Aeronautics or a county, municipality or other political subdivision for an airport or landing field or for the expansion of an airport or landing field may be acquired by grant, purchase, lease or other means if the Division of Aeronautics or such political subdivision is able to agree with the owners of said property on the terms of such acquisition and otherwise by condemnation in the manner provided by law under which the state or such political subdivision is authorized to acquire real property for public purposes.

History: L. 1937, ch. 9, § 3; 1939, ch. 11, § 1; C. 1943, 4-0-55; L. 1967, ch. 175, § 45.

Cross-References. — Eminent domain generally, § 78-34-1 et seq.

2-2-6. Payment by appropriation or sale of bonds.

The purchase price or award for real property acquired, in accordance with the provisions of this act, for an airport or landing field may be paid for by appropriation of money available therefor or wholly or partly from the proceeds of the sale of bonds of said county, municipality, or other political subdivision, as the legislative body of such political subdivision shall determine, subject to the adoption of a proposition therefor at a regular or special election, if the adoption of such a proposition is a prerequisite to the issuance of bonds of such political subdivision for public purposes generally.

History: L. 1937, ch. 9, § 4; C. 1943, 4-0-56.

Meaning of "this act". — See same catchline in notes following § 2-2-15.

2-2-7. Powers of department and political subdivisions over airports and landing fields — Security unit.

(1) The Department of Transportation, and counties, municipalities, or other political subdivisions of this state that have established or may establish airports or landing fields, or that acquire, lease, or set apart real property for those purposes, may:

(a) construct, equip, improve, maintain and operate the airports or landing fields, or may vest the authority for their construction, equipment, improvement, maintenance, and operation in an officer of the Department of Transportation or in an officer, board, or body of the political subdivision;

(b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields, fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the Utah Aeronautical Committee;

(c) lease the airports or landing fields to private parties for operation for a term not exceeding 50 years, as long as the public is not deprived of its rightful, equal, and uniform use of the facility;

(d) lease or assign space, area, improvements, equipment, buildings, and facilities on the airports or landing fields to private parties for operation for a term not exceeding 50 years;

(e) lease or assign real property comprising all or any part of the airports or landing fields to private parties for the construction and operation of hangars, shop buildings, or office buildings for a term not exceeding 50 years, if the projected construction cost of the hangar, shop building, or office building is \$100,000 or more; and

(f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state and local laws at any airport that is subject to federal airport security regulations.

(2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport or landing field established by them under Subsection (1)(a).

(3) (a) If the department or political subdivision establishes a security unit under Subsection (1)(f), the department head or the governing body of the political subdivisions shall appoint persons qualified as peace officers under Chapter 1a, Title 77, to staff the security unit.

(b) A security unit appointed by the department or political subdivision is exempt from civil service regulations.

History: L. 1937, ch. 9, § 5; 1939, ch. 11, § 1; C. 1943, 4-0-57; L. 1963, ch. 1, § 1; 1967, ch. 175, § 46; 1969, ch. 199, § 34; 1981, ch. 2, § 1; 1983, ch. 1, § 17; 1987, ch. 92, § 1; 1987 (1st S.S.), ch. 7, § 1.

Amendment Notes. — The 1983 amendment substituted "aeronautical committee" for "board of aeronautics" in Subsection (2); inserted "projected" before "construction cost" in Subsection (3); and made minor changes in phraseology, punctuation and style.

The 1987 amendment by Chapter 92 substituted "Department of Transportation" for "division of aeronautics" in the introductory paragraph and in Subsection (1) and, in Subsection (4), substituted "as provided in Chapter 1a, Title 77" for "Category III, as provided in Subsection 77-1-3(5)(c)."

The 1987 (1st S.S.) amendment, effective June 5, 1987, rewrote the former provisions of the section and designated them as Subsection (1) and added Subsections (2) and (3).

2-2-8. Providing for levying of taxes.

The local public authorities having power to appropriate money within the counties, municipalities, or other public subdivisions of this state for the purpose of acquiring, establishing, developing, operating, maintaining, or controlling airports or landing fields under the provisions of this act, are authorized to appropriate and cause to be raised by taxation or otherwise in such political subdivisions money sufficient to carry out therein the provisions of this act, also to use for such purpose or purposes money derived from said airports or landing fields.

History: L. 1937, ch. 9, § 6; C. 1943, 4-0-58.

Meaning of "this act". — See same catch-line in notes following § 2-2-15.

2-2-9. Acquisition of air rights — Condemnation.

Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this act, the Division of Aeronautics and the counties, municipalities and other subdivisions of this state are granted authority to acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease or condemnation in the same manner as is provided in § 2-2-5 for the acquisition of the airport or landing field itself or the expansion thereof.

History: L. 1937, ch. 9, § 7; 1939, ch. 11, § 1; C. 1943, 4-0-59; L. 1967, ch. 175, § 47.

Meaning of "this act". — See same catch-line in notes following § 2-2-15.

Cross-References. — Zoning regulations, § 2-4-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 58.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 73.

Key Numbers. — Aviation ⇌ 231.

2-2-10. Easements for marks or lights — Condemnation.

The Division of Aeronautics and such counties, municipalities and other political subdivisions of this state are authorized to acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate and maintain suitable lights for the nighttime, marking of buildings or other structures or obstructions for the safe operation of aircraft utilizing airports and landing fields acquired or maintained under this act. Such rights or easements may be acquired by grant, purchase, lease or condemnation in the same manner as provided in § 2-2-5 for the acquisition of the airport or landing field itself or the expansion thereof.

History: L. 1937, ch. 9, § 8; 1939, ch. 11, § 1; C. 1943, 4-0-60; L. 1967, ch. 175, § 48. **Meaning of "this act".** — See same catch-line in notes following § 2-2-15.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 73.

Key Numbers. — Aviation ⇐ 237.

2-2-11. Police regulations.

The Division of Aeronautics and counties, municipalities or other political subdivisions of this state acquiring, establishing, developing, operating, maintaining or controlling airports or landing fields without the geographical limits of such subdivisions, under the provisions of this act, are specifically granted the right to promulgate, amend, and enforce police regulations for such airports and landing fields.

History: L. 1937, ch. 9, § 9; 1939, ch. 11, § 1; C. 1943, 4-0-61; L. 1967, ch. 175, § 49. **Meaning of "this act".** — See same catch-line in notes following § 2-2-15.

2-2-12. General provisions of law applicable in condemnation proceedings, issuing bonds, and levying taxes.

It is the intent and purpose of this act that all provisions herein relating to the issuance of bonds and the levying of taxes for airport purposes and the condemnation for airports and airport facilities shall be construed in accordance with general provisions of the law of this state governing the right and procedure of municipalities to condemn property, issue bonds, and levy taxes.

History: L. 1937, ch. 9, § 10; C. 1943, 4-0-62.

Meaning of "this act". — See same catch-line in notes following § 2-2-15.

Cross-References. — Cities, powers and duties, § 10-8-1 et seq.

County corporate powers, § 17-4-1 et seq.
Eminent domain, § 78-34-1 et seq.

2-2-13. Separability clause.

If any provision of this act or the application thereof is held invalid, such invalidity shall not affect provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1937, ch. 9, § 11; C. 1943, 4-0-63.

Meaning of "this act". — See same catch-line in notes following § 2-2-15.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statute § 94.

Key Numbers. — Statutes ⇐ 64(1), (2).

2-2-14. Construction of chapter.

This act shall be so interpreted and construed as to effectuate the general purpose of those states which enact it.

History: L. 1937, ch. 9, § 12; C. 1943, 4-0-64.

Meaning of "this act". — See same catch-line in notes following § 2-2-15.

2-2-15. Short title.

This act may be cited as the Uniform Airports Act.

History: L. 1937, ch. 9, § 13; C. 1943, 4-0-65.

Meaning of "this act". — The term "this act" refers to Laws 1937, Chapter 9, which appears as §§ 2-2-3 to 2-2-15. The reference, however, probably should be to "this chapter."

Compiler's Notes. — The National Conference of Commissioners on Uniform State Laws withdrew the Uniform Airports Act in 1943.

CHAPTER 3

FEDERAL AIRPORT FUNDS ACT

Section		Section	
2-3-1.	Definitions.	2-3-6.	Mutual assistance — Gifts, leases and loans.
2-3-2.	Purpose and policy of chapter.	2-3-7.	Contractual powers of public agencies.
2-3-3.	Submission of requests for aid — Approval by division — Receipt and disbursement of funds.	2-3-8.	Powers of governing bodies.
2-3-4.	Repealed.	2-3-9.	Construction of chapter.
2-3-5.	Powers and duties of Division of Aeronautics.	2-3-10.	Separability clause.
		2-3-11.	Short title.

2-3-1. Definitions.

As used in this chapter:

(1) "Airport" means any area of land or water which is used, or intended for use: for the landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for aircraft buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

(2) "Air navigation facility" means any facility — other than one owned and operated by the United States — used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(3) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(4) "Municipality" means any county, city, town, or political subdivision of this state.

(5) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representation thereof.

(6) "Public agency" means the United States government or an agency thereof; a state or an agency thereof; a municipality or other political subdivision; or a tax supported organization.

History: L. 1947, ch. 7, § 1; C. 1943, Supp., 4-0-84; L. 1969, ch. 199, § 35; 1975 (1st S.S.), ch. 9, § 2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 63, 64.

2-3-2. Purpose and policy of chapter.

It is declared that the purpose of this act is to further the public interest in aeronautical progress:

(1) by authorizing public agencies of this state to accept, channel, and disburse federal, state, and other funds for the planning, acquisition, construction, maintenance, operation, and regulation of airports and air navigation facilities;

(2) by granting to a state agency such powers and imposing upon it such duties that the state may obtain the full benefit of financial assistance made available by the Federal Government, as well as assistance from other sources;

(3) by providing authority that may be exercised by a public agency independently or jointly with other public agencies, thereby enabling two or more cities, towns, counties, and other political subdivisions jointly to establish, acquire, develop, and operate an airport or airports for their joint or common use.

History: L. 1947, ch. 7, § 2; C. 1943, Supp., 4-0-85; L. 1973, ch. 1, § 4.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

2-3-3. Submission of requests for aid — Approval by division — Receipt and disbursement of funds.

No public agency in this state, whether acting alone or jointly with another public agency or with the state, shall submit to any federal agency or department of the United States any requests for aid under the provisions of any act of congress which provides funds for airports, landing fields, landing strips, or commercial airport construction, development, expansion, and/or improvements, unless the project and the requests for aid have been first approved by the Division of Aeronautics. No such public agency shall directly accept, receive, receipt for, or disburse any funds granted by the United States under such act, but it shall designate the division as its agent and in its behalf to accept, receive, receipt for, and disburse such funds. It shall enter into an agreement with the division, prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and applicable

laws of this state. Such moneys as are paid over by the United States government shall be retained by the state or paid over to the public agency under such terms and conditions as may be imposed by the United States government in making the grant.

History: L. 1947, ch. 7, § 3; C. 1943, Supp., 4-0-86; L. 1967, ch. 175, § 50; 1969, ch. 199, § 36; 1973, ch. 1, § 5; 1983, ch. 1, § 18.

Amendment Notes. — The 1983 amend-

ment substituted "Division of Aeronautics" for "Board of Aeronautics" in the first sentence; and made minor changes in phraseology and punctuation.

2-3-4. Repealed.

Repeals. — Section 2-3-4, as amended by Laws 1969, ch. 199, § 37, relating to accep-

tance and disposition of state and federal funds, was repealed by Laws 1973, ch. 1, § 6.

2-3-5. Powers and duties of Division of Aeronautics.

(1) The Division of Aeronautics may, insofar as is reasonably possible, make available its engineering and other technical services, with or without charge, to any public agency or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities.

(2) The Division of Aeronautics may render financial assistance by grant or loan or both, to any public agency, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by such public agency, out of appropriations made by the Legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(3) In carrying out the provisions of this act the Division of Aeronautics may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available their facilities and services.

(4) All powers, privileges and authority granted to any public agency by this act may be exercised and enjoyed jointly with any public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment.

History: L. 1947, ch. 7, § 5; C. 1943, Supp., 4-0-88; L. 1967, ch. 175, § 52; 1969, ch. 199, § 38.

Meaning of "this act". — See same catchline in notes following § 2-3-11.

2-3-6. Mutual assistance — Gifts, leases and loans.

If any public agency determines that the public interest and the interest of the public agency will be served by assisting any other public agency in exercising the powers and authority granted by this act, such public agency may furnish assistance by gift of real or personal property or money or lease or loan thereof with or without charge or interest. In appropriating such property or money and providing for such assistance by taxation, the issuance

of bonds, or other means, the public agency may exercise all of its powers as though used for its own direct purposes as provided in this act.

History: L. 1947, ch. 7, § 6; C. 1943, Supp., 4-0-89.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

2-3-7. Contractual powers of public agencies.

A public agency may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by this act.

History: L. 1947, ch. 7, § 7; C. 1943, Supp., 4-0-90.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

2-3-8. Powers of governing bodies.

The governing body of any public agency having power to appropriate and raise money is authorized to appropriate, and to raise by taxation or otherwise, sufficient moneys to carry out the provisions and purposes of this act.

History: L. 1947, ch. 7, § 8; C. 1943, Supp., 4-0-91.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

2-3-9. Construction of chapter.

This act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of public airports.

History: L. 1947, ch. 7, § 9; C. 1943, Supp., 4-0-92.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

2-3-10. Separability clause.

If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1947, ch. 7, § 10; C. 1943, Supp., 4-0-93.

Meaning of "this act". — See same catch-line in notes following § 2-3-11.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.

Key Numbers. — Statute ⇌ 64(1), (2).

2-3-11. Short title.

This act may be cited as the "Federal Airport Funds Act."

History: L. 1947, ch. 7, § 12; C. 1943, Supp., 4-0-95.

Meaning of "this act". — The term "this act" means Laws 1947, Chapter 7, which ap-

pears as §§ 2-3-1 to 2-3-3 and 2-3-5 to 2-3-11. The reference, however, probably should be to "this chapter."

CHAPTER 4

AIRPORT ZONING ACT

Section		Section	
2-4-1.	Definitions.	2-4-8.	Appeals to board of adjustment — Procedure — Stay of proceedings — Hearing and judgment.
2-4-2.	Declaration with respect to airport hazards.	2-4-9.	Airport zoning regulations — Administration and enforcement.
2-4-3.	Airport zoning regulations — Joint airport zoning board — Powers of board — Membership.	2-4-10.	Board of adjustment — Powers — Appointment and membership of board — Hearings and decisions by board — Meetings — Adoption of rules.
2-4-4.	Zoning ordinances — Governing law in event of conflict.	2-4-11.	Appeals to district courts — Procedure — Findings, judgment and costs — Regulations invalid as to one structure or parcel of land.
2-4-5.	Airport zoning regulations — Adoption and amendment — Airport zoning commission — Powers and duties.	2-4-12.	Violations of chapter or rulings — Misdemeanor — Remedies of political subdivisions.
2-4-6.	Airport zoning regulations — Validity, limitations and restrictions.	2-4-13.	Purchase or condemnation of air rights or navigation easements.
2-4-7.	Permit for new or changed structures or uses — Nonconforming structures — Airport hazards — Application to board of adjustment for variance — Allowance of variance — Conditioning permit or variance.	2-4-14.	Separability clause.
		2-4-15.	Short title.

2-4-1. Definitions.

As used in this act, unless the context otherwise requires:

(1) "Airport" means any area of land or water designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

(2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.

(4) "Political subdivision" means any municipality, city, town, or county.

(5) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(6) "Tree" means any object of natural growth.

History: L. 1945, ch. 10, § 1; C. 1943, Supp., 4-0-68.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-2. Declaration with respect to airport hazards.

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) that this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

History: L. 1945, ch. 10, § 2; C. 1943, Supp., 4-0-69.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 58, 59.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 73.

Key Numbers. — Aviation ⇌ 231.

2-4-3. Airport zoning regulations — Joint airport zoning board — Powers of board — Membership.

(1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by Subsection (1) in the political subdivision within which such area is located. Each such joint board shall have as members two representatives appointed by each political subdivision

participating in its creation and in addition a chairman elected by a majority of the members so appointed.

History: L. 1945, ch. 10, § 3; C. 1943, Supp., 4-0-70.

2-4-4. Zoning ordinances — Governing law in event of conflict.

(1) In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) In the event of conflict between any airport zoning regulations adopted under this act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

History: L. 1945, ch. 10, § 4; C. 1943, Supp., 4-0-71.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-5. Airport zoning regulations — Adoption and amendment — Airport zoning commission — Powers and duties.

(1) No airport zoning regulation shall be adopted, amended, or changed under this act except by action of the legislative body of the political subdivision in question, or the joint board provided for in Subsection 2-4-3(2), after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Prior to the initial zoning of any airport hazard area under this act, the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such commission. Where a comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

History: L. 1945, ch. 10, § 5; C. 1943, Supp., 4-0-72.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-6. Airport zoning regulations — Validity, limitations and restrictions.

(1) All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) No airport zoning regulations adopted under this act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Subsection 2-4-7(3).

History: L. 1945, ch. 10, § 6; C. 1943, Supp., 4-0-73.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-7. Permit for new or changed structures or uses — Nonconforming structures — Airport hazards — Application to board of adjustment for variance — Allowance of variance — Conditioning permit or variance.

(1) Any airport zoning regulations adopted under this act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this act, may apply to the board of adjustment for a variance from the zoning regulations in question. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest

but do substantial justice and be in accordance with the spirit of the regulations and this act; provided, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this act.

(3) In granting any permit or variance under this section, the administrative agency or board of adjustment may, if it deems such action advisable to effectuate the purposes of this act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

History: L. 1945, ch. 10, §7; C. 1943, Supp., 4-0-74.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-8. Appeals to board of adjustment — Procedure — Stay of proceedings — Hearing and judgment.

(1) Any person aggrieved, or taxpayer affected, by any decision of any administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board on notice to the agency from which the appeal is taken and on due cause shown.

(4) The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

History: L. 1945, ch. 10, § 8; C. 1943, Supp., 4-0-75.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-9. Airport zoning regulations — Administration and enforcement.

All airport zoning regulations adopted under this act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under Subsection 2-4-7(1), but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

History: L. 1945, ch. 10, § 9; C. 1943, Supp., 4-0-76.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

2-4-10. Board of adjustment — Powers — Appointment and membership of board — Hearings and decisions by board — Meetings — Adoption of rules.

(1) All airport zoning regulations adopted under this act shall provide for a board of adjustment to have and exercise the following powers:

(a) to hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations, as provided in § 2-4-8;

(b) to hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations; and

(c) to hear and decide specific variances under Subsection 2-4-7(2).

(2) Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise, the board of adjustment shall consist of five members, each to be appointed for a term of three years, by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing.

(3) The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

(4) The board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the

vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

History: L. 1945, ch. 10, § 10; C. 1943, Supp., 4-0-77.

Cross-References. — Administrative rule-making, Chapter 46a of Title 63.

Meaning of "this act". — See same catchline in notes following § 2-4-15.

COLLATERAL REFERENCES

C.J.S. — 101A C.J.S. Zoning & Land Planning §§ 180 to 190.

Key Numbers. — Zoning ⇌ 351 et seq.

2-4-11. Appeals to district courts — Procedure — Findings, judgment and costs — Regulations invalid as to one structure or parcel of land.

(1) Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or any joint airport zoning board, which is of the opinion that a decision of a board of adjustment is illegal, may present to the district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board.

(2) Upon presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(3) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of adjustment. The findings of fact of the board shall be considered by the court unless such objection shall have been urged before the board, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(5) Costs shall not be allowed against the board of adjustment unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.

(6) In any case in which airport zoning regulations adopted under this act, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitu-

tion of this state or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

History: L. 1945, ch. 10, § 11; c. 1943, Supp., 4-0-78.

Meaning of "this act". — See same catch-line in notes following § 2-4-15.

2-4-12. Violations of chapter or rulings — Misdemeanor — Remedies of political subdivisions.

Each violation of this act or of any regulations, orders, or rulings promulgated or made pursuant to this act, shall constitute a misdemeanor. In addition, the political subdivision or agency adopting zoning regulations under this act may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

History: L. 1945, ch. 10, § 12; C. 1943, Supp., 4-0-79.

Meaning of "this act". — See same catch-line in notes following § 2-4-15.

2-4-13. Purchase or condemnation of air rights or navigation easements.

In any case which: (1) it is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located or the political subdivision owning the airport or served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, such air right, navigation easement, or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purposes of this act.

History: L. 1945, ch. 10, § 13; C. 1943, Supp., 4-0-80.

Cross-References. — Eminent domain, § 78-34-1 et seq.

Meaning of "this act". — See same catch-line in notes following § 2-4-15.

2-4-14. Separability clause.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1945, ch. 10, § 14; C. 1943, Supp., 4-0-81.

Meaning of "this act". — See same catch-line in notes following § 2-4-15.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.

Key Numbers. — Statutes ⇌ 64(1), (2).

2-4-15. Short title.

This act shall be known and may be cited as the "Airport Zoning Act."

History: L. 1945, ch. 10, § 15; C. 1943, Supp., 4-0-82.

Meaning of "this act". — The term "this

act" means Laws 1945, Chapter 10, which appears as §§ 2-4-1 to 2-4-15. The term probably should read "this chapter."

CHAPTER 5

AIRPORT AUTHORITY ACT

Section		Section	
2-5-1.	Short title.	2-5-14.	Selection of chairperson and vice-chairperson.
2-5-2.	Definitions.	2-5-15.	Quorum of board.
2-5-3.	Legislative findings — Purpose.	2-5-16.	Records of meetings.
2-5-4.	Creation of authority by city.	2-5-17.	Powers of authority.
2-5-5.	Resolution of intent prerequisite to establishment — Contents.	2-5-18.	Additional powers of board.
2-5-6.	Publication of notice of intent to establish authority.	2-5-19.	Powers of city as to airport.
2-5-7.	Protests or objections — Filing — Consideration.	2-5-20.	Deposit of authority income — Investment.
2-5-8.	Board — Delegation of powers — Number of commissioners — Appointment — Term — Oath — Vacancies.	2-5-21.	Reports by authority.
2-5-9.	Removal of commissioners — Grounds — Procedure.	2-5-22.	Budget of authority — Expenditures limited to appropriations.
2-5-10.	Disclosures required of commissioners — Conflicts of interest.	2-5-23.	Tax exemption of authority property.
2-5-11.	Qualifications of commissioners.	2-5-24.	Governmental capacity of authority.
2-5-12.	Expense reimbursement.	2-5-25.	Exemption of authority property from execution — Enforcement of encumbrance.
2-5-13.	Meetings of board.	2-5-26.	Dissolution of authority.
		2-5-27.	Requirements imposed on authority by creating ordinance.

2-5-1. Short title.

This act shall be known and may be cited as the "Utah Public Airport Authority Act".

History: C. 1953, 2-5-1, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — The term "this act" means Laws 1983, Chapter 2, which appears as §§ 2-5-1 to 2-5-27. The reference probably should be to "this chapter."

2-5-2. Definitions.

As used in this act:

(1) "Air navigation facility" means a public facility, other than one owned and operated by the Federal Government, used, available for use, or designed for use, in aid of air navigation, including structures, mechanisms, lights, beacons, markers, communicating systems, and other instrumentalities or devices used or useful to aid the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport.

(2) "Airport" means an area of land or water which is used, or is made available, for the landing and takeoff of aircraft, including any appurtenant areas which are used, or intended for use, for airport buildings, other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon, and which may include land and buildings, together with all appurtenances necessary or convenient thereto for the accommodation or convenience of the public, including, but not limited to, parking, dining, recreational, and hotel facilities.

(3) "Airport hazard" means a structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing at or taking off from an airport, or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Authority" means a body corporate and politic and constituting a political subdivision of the state created for airport purposes under this act.

(5) "Board" means the board of commissioners of an authority created under this act, which body has charge of and the responsibility for the planning, design, construction, operation, maintenance, administration and management of all airport properties and attendant facilities under the jurisdiction of the city creating an authority.

(6) "Bonds" means bonds, notes, interim certificates, debentures, or similar obligations issued by an authority pursuant to this act.

(7) "City" means a city of the first class as defined in § 10-1-1 [§ 10-2-301].

(8) "Commissioner" means an individual who has been appointed as a member of the board and who is a duly qualified and an acting, voting member thereof.

(9) "Director" means the person appointed by the board to direct the day-to-day functions of the authority and to carry out the directions of the board.

(10) "Federal Government" means the United States, or any of its officers, agencies, boards, or commissions.

(11) "Income of the authority" means all revenues derived directly or indirectly by the authority from the use and operation of the airport, or airports under its management, including, but not limited to, interest on investments and all rentals, fees, rates, or other charges for the use of the airport or airports, or for any services rendered by the authority in their operation, but does not include money received as grants or gifts from the Federal Government or the state or other source, the use of which is limited by the grantor or donor to the construction of capital improvements to an airport.

(12) "Legislative body" means the city commission or the city council of the city creating an authority.

(13) "Mayor" means the duly elected, or appointed, and qualified mayor of the city establishing an authority, or that mayor's designated representative.

History: C. 1953, 2-5-2, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catchline in notes following § 2-5-1.

Compiler's Notes. — Section 10-1-1, re-

ferred to at the end of Subsection (7), was repealed by Laws 1977, ch. 48, § 1. Section 10-2-301 now contains provisions classifying municipalities by population.

2-5-3. Legislative findings — Purpose.

The Legislature finds and declares that the purpose of this act is to authorize the creation by cities of airport authorities as separate and independent bodies, corporate and politic, constituting political subdivisions of the state of Utah the purpose of which is to acquire, improve, operate, manage and administer public airports, and air navigation facilities and related facilities, thereby promoting and facilitating transportation by air from or to points located within the state to the benefit and general welfare of the state and its political subdivisions and inhabitants.

History: C. 1953, 2-5-3, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catchline in notes following § 2-5-1.

NOTES TO DECISIONS

Eminent domain.

An airport authority has the power of eminent domain and is a proper party to an action by landowners who allege that their land has

been "taken" by overflights. *Katsos v. Salt Lake City Corp.*, 634 F. Supp. 100 (D. Utah 1986).

2-5-4. Creation of authority by city.

A city may create by ordinance an authority to exercise the functions conferred under this act.

History: C. 1953, 2-5-4, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catchline in notes following § 2-5-1.

2-5-5. Resolution of intent prerequisite to establishment — Contents.

A legislative body of a city shall, before it establishes an authority, adopt a resolution of intent to establish an authority which must contain:

- (1) a statement of intent to create an airport authority;
- (2) the name of the airport authority;
- (3) the time and place for a public hearing;
- (4) the name of the newspaper in which the resolution will be published;
- (5) a designation of the airport or airports to come under the jurisdiction of the authority; and
- (6) such other information concerning the proposed authority as the legislative body deems necessary or appropriate.

History: C. 1953, 2-5-5, enacted by L.
1983, ch. 2, § 1.

2-5-6. Publication of notice of intent to establish authority.

A notice of intention to establish an authority, which shall include all of the information required to be included in the resolution required under § 2-5-5, except the name of the newspaper, and which shall be published at least once a week during three consecutive weeks, the first publication to be not less than 21 days nor more than 35 days before the hearing, in a newspaper having general circulation in the city proposing the establishment of the authority.

History: C. 1953, 2-5-6, enacted by L.
1983, ch. 2, § 1.

2-5-7. Protests or objections — Filing — Consideration.

Written protests or objections to the formation of the authority may be filed in the office of the city recorder of the city, giving notice of intent to protest or object, at any time prior to the hour fixed for the hearing. At the hearing, the legislative body shall consider only the protests or objections filed in accordance with the requirements of this section.

History: C. 1953, 2-5-7, enacted by L.
1983, ch. 2, § 1.

2-5-8. Board — Delegation of powers — Number of commissioners — Appointment — Term — Oath — Vacancies.

(1) All powers, privileges, and duties vested in or imposed upon an authority incorporated under this act shall be exercised and performed by and through the board except as otherwise provided by law, but the exercise of all executive, administrative, and ministerial powers may be delegated by the board and redelegated to any of the officers appointed by the board.

(2) The board shall consist of seven commissioners.

(3) All appointments of commissioners shall be made by the mayor, with the advice and consent of the council, and all removals shall be made by the mayor.

(4) The original appointment of commissioners shall be as follows: one for a term of one year; two for a term of two years; two for a term of three years; and two for a term of four years. Thereafter, as the respective terms expire, each appointment shall be for a term of four years. Any fraction of a calendar year in the initial appointment shall be considered a full year.

(5) A certificate of appointment or reappointment of any commissioner shall be filed with the city recorder, and the certificate shall be conclusive evidence of the due and proper appointment of that commissioner.

(6) Each commissioner's term of office shall expire on the applicable third Monday in January, but a commissioner whose term has expired shall continue to hold office until a successor is appointed and qualified.

(7) Each commissioner shall sign the oath of office required by law to be signed by city officials and shall file it in the office of the city recorder. A commissioner who fails, within ten days after notification of appointment, to file with the city recorder the required oath of office shall be deemed to have refused the appointment, and thereupon another person shall be appointed in the manner prescribed in this act.

(8) A vacancy occurring in the membership of the board shall be filled for the unexpired term in the same manner as was the original appointment.

History: C. 1953, 2-5-8, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-9. Removal of commissioners — Grounds — Procedure.

A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office, but only after a hearing. The commissioner shall be given a copy of any charges against him or her at least ten days prior to the hearing and shall have an opportunity to be heard in person or through counsel, except that the mayor may replace, without cause and without a hearing, any one commissioner each calendar year prior to the expiration of that commissioner's term.

History: C. 1953, 2-5-9, enacted by L. 1983, ch. 2, § 1.

2-5-10. Disclosures required of commissioners — Conflicts of interest.

Commissioners are subject to and bound by the provisions of the Municipal Officers and Employees Disclosure Act, § 10-3-1301 et seq., and any conflict of interest ordinance in effect in the city creating an authority. Any violation of the provisions of that act or such an ordinance is grounds for removal from office.

History: C. 1953, 2-5-10, enacted by L.
1983, ch. 2, § 1.

2-5-11. Qualifications of commissioners.

A person to be eligible to be appointed as a commissioner shall meet the following requirements:

- (1) be not less than 21 years of age;
- (2) be a resident of the state of Utah; and
- (3) not be actively engaged or employed in commercial aeronautics, or actively engaged in supplying goods or services to the authority for his or her financial gain.

History: C. 1953, 2-5-11, enacted by L.
1983, ch. 2, § 1.

2-5-12. Expense reimbursement.

A commissioner is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of official duties.

History: C. 1953, 2-5-12, enacted by L. Travel expenses for state employees,
1983, ch. 2, § 1. § 63-1-15.

Cross-References. — Per diem rates for
state employees, § 63-1-14.5.

2-5-13. Meetings of board.

(1) The board shall convene for regular meetings to be held not less than monthly throughout the year.

(2) The board shall comply with the provisions of § 10-3-601.

(3) Special meetings may be ordered by a majority of the commissioners or the chairperson. The order for a special meeting must be signed by the chairperson or commissioners calling the meeting, and, unless the notice requirement is waived in writing, each commissioner not joining in the order for the special meeting must be given not less than three hours' notice. The notice shall be served personally or left at the commissioner's residence or business office.

(4) Meetings shall be held at such public place, within the city creating the authority, as may be designated by the board or the chairperson.

(5) The board shall adopt a system of rules of procedure under which its meetings are to be held. The board may suspend the rules of procedure by two-thirds vote of the commissioners who are present at the meeting. The board shall not suspend the rules of procedure beyond the duration of the meeting at which the suspension of the rule occurs.

(6) The board is empowered to determine and establish such rules for the conduct of the board as the commissioners deem advisable, except that such rules shall not be in conflict with this act or other law, federal, state or city.

History: C. 1953, 2-5-13, enacted by L.
1983, ch. 2, § 1.

Cross-References. — Administrative rule-making, Chapter 46a of Title 63.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-14. Selection of chairperson and vice-chairperson.

Each year the board at its first regular meeting after the third Monday in January shall select one of its commissioners as chairperson, and another of its commissioners as vice-chairperson who shall perform the duties of the chairperson during the absence or disability of the chairperson.

History: C. 1953, 2-5-14, enacted by L.
1983, ch. 2, § 1.

2-5-15. Quorum of board.

Four commissioners of the board constitute a quorum for the transactions of business. The board may act officially by an affirmative vote of a majority of the members of a quorum, unless it is otherwise provided for in the ordinance creating the authority.

History: C. 1953, 2-5-15, enacted by L.
1983, ch. 2, § 1.

2-5-16. Records of meetings.

The board shall cause written minutes of its proceedings to be kept which shall be available for public inspection in the office of the director. The board shall record in the record the ye and nay votes cast by the board with regard to any action taken by it.

History: C. 1953, 2-5-16, enacted by L.
1983, ch. 2, § 1.

2-5-17. Powers of authority.

An authority has power to:

- (1) have perpetual existence;
- (2) have and use a corporate seal;
- (3) sue and be sued, and be a party to suits, actions, and proceedings;
- (4) enter into and establish terms and conditions of contracts, agreements and other instruments necessary or convenient to the exercise of its power or affecting the affairs of the authority, all contracts entered into on behalf of the authority to be signed by the chairperson, or in the chairperson's absence by the vice-chairperson, and countersigned by the secretary;
- (5) borrow money and issue bonds payable in whole or in part from, and secured by, the income of the authority, subject to the following:
 - (a) Before any money is borrowed or any bonds issued, the borrowing or sale must first be approved by the council of the city creating the authority.
 - (b) Bonds must be authorized by resolution of the board, without the necessity of submitting the question of their issuance to the qualified electors of the city creating the authority.
 - (c) The resolution must prescribe the form of the bonds and the manner of their execution, which may be effected by the use of the

facsimile signatures of the officers of the authority in accordance with the laws of the state in effect at the time of their execution.

(d) The resolution must also provide for the terms of the bonds, including the maximum net effective interest rate for the issue of bonds, and the security for their payment.

(e) The board may provide for the redemption of the bonds prior to their respective maturities with or without premium.

(f) The board may direct that the bonds be sold at public or private sale at or below par, but the bonds shall not be sold at a price such that the net effective interest rate of the issue of bonds exceeds the maximum net effective interest rate as authorized in the resolution.

(g) The board may prescribe such other details in connection with the issue of bonds as it deems appropriate.

(h) Bonds authorized must mature serially over a period of not exceeding 30 years and must bear interest not to exceed the net effective interest rate authorized in the resolution.

(i) The resolution and bonds may also include such other terms or recitals which in the judgment of the board are necessary or proper to render them marketable.

(j) This act shall not be construed as authorizing the authority to assess and levy taxes for the payment of the bonds, and the bonds are not, and shall not be construed to be, an indebtedness of the city creating the authority.

(6) refund any bonds of the authority as they become due at stated maturities, or as a result of the exercise of the privilege of calling bonds for prior redemption and to refund any such bonds in advance of those maturities or redemption dates in accordance with the laws of the state then in effect and applicable to municipalities, the terms and conditions of refunding bonds to be substantially the same as those of an original issue of bonds;

(7) pledge all or a part of the income of the authority to the payment of the bonds authorized to be issued under this act and to otherwise secure the payment of the bonds to the extent permitted by law, including, but not limited to, a conveyance in trust of any or all of the properties or facilities of the authority as a part of the security;

(8) purchase, trade, exchange, acquire, buy, sell, obtain option upon, acquire by gift, grant, bequest, or devise, or otherwise dispose of and encumber real and personal property of the authority and any interest therein, including leases and easements;

(9) regulate the receiving, deposit and embarkation of passengers or property to or from the airport;

(10) regulate or prohibit any airport hazard;

(11) exact and require charges, fees, and rentals, and provide for a lien to enforce the payment thereof;

(12) lease or assign for operation such space or area, appurtenances, appliances, or other conveniences as are necessary or useful;

(13) provide rules governing the use of the airport or airports, and facilities and the use of other property and means of transportation within or over the airport or airports, landing field and navigation facilities, and perform any duties, necessary for or consistent with the regulation of air traffic;

(14) enter into contracts or otherwise cooperate with the Federal Government, the state, or other public or private agencies;

(15) exercise such powers as may be required for or consistent with the promotion of aeronautics and the furtherance of commerce and navigation by air;

(16) insure or provide for the insurance of any operations of the authority against risks or hazards;

(17) invest any money held in reserves or sinking funds, or any money not required for immediate disbursement, in property or securities in which cities may legally invest money subject to their control;

(18) obtain, hire, purchase or rent equipment, supplies, or services;

(19) authorize and pay the travel and other expenses of authority members, officers, agents, counsel, and employees when engaged in authority business;

(20) accept financial assistance from public or private sources, borrow money and apply for and accept advances, loans, grants, contributions and any other forms of financial assistance from the Federal Government, state, or city or any other source public or private; and

(21) include in any contract for financial assistance with the Federal Government for or with respect to a project and related activities such conditions imposed pursuant to federal laws as the authority may deem reasonable and appropriate and which are not inconsistent with the purposes of this act.

History: C. 1953, 2-5-17, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-18. Additional powers of board.

The board, in addition to any other powers conferred under this act, has the power to:

(1) fix the time and place at which its meetings shall be held, which place shall be a public place located within the city;

(2) make, amend, and repeal bylaws and rules, not inconsistent with, and to carry into effect, the powers and purposes of this act, though the power granted in this subsection does not include the power to impose any criminal sanction;

(3) make and pass resolutions and orders not repugnant to the Constitution of the United States or of the state, or other federal, state, or municipal law, including the provisions of this act, necessary for the government and management of the affairs of the authority and the execution of the powers vested in the authority and for carrying into effect the provisions of this act; on all resolutions the roll shall be called and the ayes and nays recorded;

(4) record each resolution, as soon as possible after its passage, in a book kept for that purpose and authenticate it by the signature of the chairperson and the secretary of the board;

(5) transact business only if a quorum is present at a regular or special meeting;

(6) fix the location of the principal place of business of the authority and the location of all offices and departments maintained thereunder, the location thereof to be such place as the board deems best;

(7) prescribe by resolution a system of business administration, create any and all necessary offices, and require and fix the amount of all official bonds necessary for the protection of the funds and property of the authority;

(8) employ a director and such deputy directors, technical experts, and other agents and employees, permanent and temporary, and determine their qualifications, duties, benefits and compensation, as the board may require or deem necessary for the planning, design, operation, maintenance, administration and management of all airports and their attendant facilities under the jurisdiction of the authority;

(9) delegate and redelegate to such employees as are referred to in Subsection (8) the powers conferred under this act, under such conditions and restrictions as are fixed by the board to authorize those employees to carry out the functions of the authority;

(10) prescribe a method of auditing and allowing or rejecting claims and demands; and

(11) contract with the city establishing the authority for the providing of any services or supplies required by the authority.

History: C. 1953, 2-5-18, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-19. Powers of city as to airport.

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of airports, a city creating an authority may:

(1) dedicate, sell, convey, or lease any of its airport property to an authority, upon any terms it deems appropriate;

(2) cause water, sewer or drainage facilities, or any other works which it is otherwise empowered to provide, to be furnished adjacent to or in connection with any airport;

(3) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered so to do, or all of them;

(4) plan or replan, zone or rezone, or do all or any combination of those things with regard to, any part of airport property or property around such airport or both;

(5) purchase or legally invest, or both, in any of the bonds of an authority and exercise all of the rights of any holder of such bonds;

(6) lend, grant, or contribute funds, or do any combination or all of those things, to an authority;

(7) provide access to all services and facilities of the city;

(8) issue general obligation bonds, in accordance with applicable laws, and otherwise lend the city's credit for the purpose of raising revenue for the authority if the legislative body determines that it is in the best interest of the city to do so;

(9) levy and collect taxes on behalf of the authority for airport purposes;

(10) enact such ordinances, within its power, pertaining to airports and airport property as the legislative body deems in the interest of public health, safety and welfare, including, but not limited to, ordinances which

establish rates, charges, fees or tolls, or all of them, for the uses of any airport and any of the airport facilities within its jurisdiction;

(11) appoint at any time an independent auditor and have that auditor, or the city auditor, audit the books and records of the authority, which shall reimburse the city for the cost of any audit so made; and

(12) do any and all things necessary to aid or cooperate in the planning or carrying out of functions of the authority.

History: C. 1953, 2-5-19, enacted by L.
1983, ch. 2, § 1.

2-5-20. Deposit of authority income — Investment.

An authority shall establish a special enterprise fund in which all income of the authority shall be deposited. The fund shall be kept in the treasury of the city creating the authority and may be invested by the city on behalf of the authority. However, the requirement of this section does not prohibit the depositing of income of the authority with a trustee to comply with the requirements of any bonds issued by the authority.

History: C. 1953, 2-5-20, enacted by L.
1983, ch. 2, § 1.

2-5-21. Reports by authority.

Each authority shall file with the mayor the following reports:

(1) a detailed report of all its transactions, including a statement of all revenues and expenditures, at monthly, quarterly, or annual intervals, as the mayor may prescribe;

(2) on or before September 30 of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense, as of the end of that calendar year; and

(3) any additional report required or requested by the mayor.

History: C. 1953, 2-5-21, enacted by L.
1983, ch. 2, § 1.

2-5-22. Budget of authority — Expenditures limited to appropriations.

The authority shall prepare annually a budget for the estimated operating, maintenance and improvement expenditures for the authority during the ensuing year. The budget shall be prepared in a manner consistent with the Uniform Fiscal Procedures Act for Utah Cities, § 10-6-101, et seq. It shall be submitted to the city in the manner and at the times the city directs. All expenditures of the authority shall be limited to the specific appropriations made by the legislative body based upon the estimates furnished.

History: C. 1953, 2-5-22, enacted by L.
1983, ch. 2, § 1.

2-5-23. Tax exemption of authority property.

The property of an authority, acquired or held for the purposes of this chapter, is declared to be public property used for essential public and governmental purposes, and such property is exempt from all taxes of the state and any political subdivision, including any city or county. Any property leased, rented, or granted by way of a concession to any person shall also be exempt from taxes imposed under § 59-4-101.

History: C. 1953, 2-5-23, enacted by L. 1983, ch. 2, § 1; 1987, ch. 2, § 1.

Amendment Notes. — The 1987 amendment, effective February 6, 1987, in the first sentence substituted "this chapter" for "this act" and deleted "thereof" following "political

subdivision," and in the second sentence substituted "§ 59-4-101" for "§ 59-13-73".

Retrospective Operation. — Laws 1987, ch. 2, § 331 provides: "This act has retrospective operation to January 1, 1987."

2-5-24. Governmental capacity of authority.

Each authority created under this act is declared to be performing public functions and operating in a governmental capacity and has all powers prescribed in this act.

History: C. 1953, 2-5-24, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-25. Exemption of authority property from execution — Enforcement of encumbrance.

All property of an authority, including funds owned or held by it for the purposes of this act, shall be exempt from levy and sale by virtue of an execution or other judicial process. Execution or other judicial process shall not issue against such property of an authority nor shall any judgment against an authority be a charge or lien upon the property. This section does not apply to or limit the right of an obligee to foreclose or otherwise enforce any mortgage, deed of trust, or other encumbrance of an authority or the right of an obligee to pursue any remedy for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues.

History: C. 1953, 2-5-25, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catch-line in notes following § 2-5-1.

2-5-26. Dissolution of authority.

The authority may be dissolved at any time, after a public hearing, by the legislative body of the city creating the authority. Upon dissolution, all assets of the authority shall vest in the city. All liabilities shall likewise be assumed by the city, except that such liabilities shall not become an obligation of the general fund or any other special fund of the city, such liabilities to be paid only from revenues of the airport or airports that were under the jurisdiction of the authority.

History: C. 1953, 2-5-26, enacted by L. 1983, ch. 2, § 1.

2-5-27. Requirements imposed on authority by creating ordinance.

A city creating an authority may set forth, in the creating ordinance, requirements which are more restrictive and limiting upon an authority than those contained in this act.

History: C. 1953, 2-5-27, enacted by L. 1983, ch. 2, § 1.

Meaning of "this act". — See same catchline in notes following § 2-5-1.